

### **REMARKS**

Claims 1-3, 8-14, 19-32, 47-49 and 54-59 are pending in this application. For purposes of expedition, claims 4-7, 15-18, 33-46 and 50-53 have been canceled without prejudice or disclaimer. Separately, claims 30-31 have been amended to correct a typographical error to avoid potential §112 issues. In addition, base claim 32 has been amended to incorporate limitations from dependent claims 39-44 (now canceled) to place in condition for allowance. In view of the cancellation of claims 4-7, 15-18, 33-46 and 50-53, the amendment of claims 30-31 to correct a typographical error as identified by the Examiner, and the incorporation of limitations from canceled claims 39-44 into base claim 32, entry of the foregoing amendments to claims 30-31 is proper under 37 C.F.R §1.116(b) since those limitations have already been considered, no new issues are raised, no further search is required, and the foregoing amendments are presented to remove the basis of the outstanding rejections and to place all claims in condition for allowance.

### **CLAIMS OBJECTION**

Claim 30 has been objected to because of a typographical error. In response thereto, claim 30 has been amended along with claim 31 to correct the typographical error and to render the objection moot.

### **CLAIM REJECTION UNDER 35 U.S.C. §102(b)**

Claim 32 has been rejected under 35 U.S.C. §102(b) as being anticipated by newly cited art, Shoji et al., U.S. Patent No. 6,157,609 for reasons stated on pages 2-3 of the Office Action. While Applicants disagree with the Examiner's assessment of Shoji '609, particularly, when Shoji '609 does **not** disclose Applicants' claimed "setting write pattern elements and recording a test write pattern on the optical recording medium" ... "determining a write pattern with optimum write pattern elements, based on adjusting the set write pattern elements using the radio frequency signal, wherein write pattern elements of the write pattern are optimized using at least one a magnitude, an asymmetry value and a jitter value of the radio frequency signal", base claim 32 has been amended, for purposes of expedition, to incorporate limitations from dependent claims 39-44 (now canceled) in order to render the rejection moot.

For example, base claim 32 has been amended to define that "write pattern elements of

the write pattern include information indicating a width of a first pulse of the write pattern, information indicating a shift amount of a starting edge of the first pulse of the write pattern, information indicating a width of the multi-pulses of the write pattern, and information indicating a period of time for which a cooling pulse lasts" and that are optimized based on at least one of a magnitude, an asymmetry value, and a jitter value of the radio frequency signal.

Since Shoji '609 fails to disclose the specific of the claimed write pattern elements of a write pattern that is optimized using at least one of a magnitude, an asymmetry value, and a jitter value of the radio frequency signal, Applicants respectfully request that the rejection be withdrawn.

#### **CLAIM REJECTION UNDER 35 U.S.C. §103**

Claims 1-10, 12-25, 27, 28, 32-38 and 47-54 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Okubo et al., U.S. Publication No. 2003/0081518 in view of Osakabe, U.S. Patent No. 5,872,763 and Shoji '609 for reasons stated on pages 3-13 of the Office Action. As discussed previously, claims 4-7, 15-18, 33-46 and 50-53 have been canceled without prejudice or disclaimer to render their rejection moot. With respect to the outstanding claims 1-3, 8-10, 12-14, 19-25, 27, 28, 32, 47-49 and 54, enclosed are copies of the Declaration under 37 CFR §131(a) and supporting documents, signed by all inventors of the instant application, to establish conception of the invention prior to the effective date of the Okubo reference (U.S. Publication No. 2003/0081518) in order to remove the Okubo reference as prior art. The Declaration under 37 CFR §131(a), as enclosed, includes a copy of the Invention Disclosure Form including the submission date of the invention, (as of September 6, 2002 which predates the effective filing date of the Okubo reference of October 18, 2002), a cover translation of the Invention Disclosure Form, a copy of the Invention Disclosure Form and a translation of the Invention Disclosure Form.

Applicants submit that the submission of Applicants' "Invention Disclosure Form" filed in Korea as evidenced from the Declaration under 37 CFR §131(a), is sufficient to establish invention of Applicants' subject matter, as defined in all outstanding claims, prior to the effective date of the Okubo reference (U.S. Publication No. 2003/0081518). Applicants further submit that under Rule 131(a), conception needs not take place in the United States; rather, conception may take place in a World Trade Organization (WTO) member country on or after January 1, 1996 for purposes of antedating a reference under Rule 131(a). The Republic of Korea, where

conception and reduction of practice took place, has been a member of the WTO since January 1, 1995. The Examiner is invited to visit WTO's website at, for example, "[http://www.wto.org/English/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/English/thewto_e/whatis_e/tif_e/org6_e.htm)" for confirmation of the WTO member of the Republic of Korea.

In view of these explanations and submission of the Declaration under 37 CFR §131(a) and supporting documents, Applicants respectfully request that the rejection of these claims be withdrawn.

Lastly, dependent claims 11, 29-31, 42-44, 55, 56, 58 and 59 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Okubo '518 in view of Osakabe '763 and further in view of Shoji et al., U.S. Patent No. 6,157,609, and further in view of Furumiya et al., U.S. Patent No. 6,791,926 for reasons stated on pages 13-15 of the Office Action. Likewise, claims 26 and 39-41 have been rejected under 35 U.S.C. §103 as being unpatentable over Okubo '518 in view of Osakabe '763 and Shoji '609 for reasons stated on pages 13-14 of the Office Action. Claims 45-46 have been rejected under 35 U.S.C. §103 as being unpatentable over Okubo '518 in view of Shoji '609 and Furumiya et al., U.S. Patent No. 6,791,926 and Tsukamoto, U.S. Patent No. 7,012,870 for reasons stated on pages 16-18 of the Office Action. Similarly, claim 57 has been rejected under 35 U.S.C. §103 as being unpatentable over Okubo '518 in view of Shoji '609, Furumiya '926 and Tsukamoto '870 for reasons stated on page 19 of the Office Action. Since the Okubo reference is no longer prior art Applicants' claimed invention, Applicants respectfully request the Examiner to withdraw these rejections for the same reasons discussed.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition to be passed to issue. Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney at the Washington DC office at (202) 216-9505. Applicants respectfully reserve all rights to file subsequent related application(s) (including reissue applications) directed to any or all previously claimed limitations/features which have been amended or canceled, or to any or all limitations/features not yet claimed, i.e., Applicants have no intention or desire to dedicate or surrender any limitations/features of the disclosed invention to the public.

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage of fees due in connection with the filing of this paper, including extension of time fees, to the Deposit Account of Stein, McEwen & Bui, LLP, No. 503333, and credit any excess fees to said deposit account.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

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